

**From:** Nate Bargmann  
**To:** Microsoft ATR  
**Date:** 1/27/02 7:00pm  
**Subject:** Microsoft Settlement

I am writing to express my concerns about the tentative settlement reached between the US Department of Justice and Microsoft Corporation on November 6, 2001. I find little in this settlement agreement that will stop the predatory practices of Microsoft and ensures a level playing field for all competitors with regard to file formats, network protocols, and Original Equipment Manufacturer license agreements.

Even more egregious than the weak settlement agreement is the lack of a penalty for violations of antitrust law. The US District Court found Microsoft guilty of several violations of antitrust law and on appeal those findings were upheld. The settlement does not address these issues in any substantive way as the behavior restrictions amount to, in common parlance, a slap on the wrist. Nothing less than a real and severe penalty will prevent this issue being revisited in several years. If a severe penalty is not assessed, respect for antitrust law will be severely weakened by future companies that gain a majority market share and is a dangerous precedent.

In addition to a substantive penalty, I believe we have an opportunity to prevent further market place abuse on the part of Microsoft. The remedy must include provisions for ensuring that Microsoft's Office file format specifications are made publicly available (under a royalty free license that does not allow use restrictions) to any software author writing an interoperable program on any operating system, not just Microsoft Windows. Likewise, network protocols must be similarly publicly disclosed as with the Office file formats. Finally, the Application Programming Interface specifications for all versions of Microsoft Windows must be likewise disclosed to prevent abuses due to Microsoft's applications writers having privileged access to the Windows source code.

Finally, Microsoft's ability to control a purchaser's choice of operating system and application software through OEM license agreements must be eliminated. Microsoft must be barred from dictating in any way the software any OEM wishes to offer for sale with its hardware. Microsoft's role must be limited to producing its software and offering it to OEMs in the same manner as it is offered to the retail sales chain.

In addition, OEMs must be required to disclose the real licensing cost associated with preloading Microsoft's products as a separate pricing option, such as many do with a display monitor now. Microsoft must be barred from OEM licensing arrangements that prevent an OEM from offering hardware without an operating system installed or prevents an OEM from

offering its systems preloaded with any competing operating system(s) and application software.

Failure to enact and enforce all of these conditions and impose substantive and severe penalties for past violations of antitrust law will result in further antitrust proceedings against Microsoft. This is something I do not wish to see. Rather, I want to live and work in a country with a growing, varied, and vibrant Information Technology infrastructure. Stopping Microsoft's predatory and illegal monopolistic practices ensures such a future for me and generations to come.

Respectfully submitted,

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Wireless | Amateur Radio Station N0NB | "None can love freedom  
Internet | [n0nb@networksplus.net](mailto:n0nb@networksplus.net) | heartily, but good  
Location | Bremen, Kansas USA EM19ov | men; the rest love not  
Wichita area exams; ham radio; Linux info @ | freedom, but license."  
<http://www.qsl.net/n0nb/> | -- John Milton